

AMENDED IN ASSEMBLY MAY 19, 2014

AMENDED IN ASSEMBLY APRIL 28, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2705

**Introduced by Assembly Member Williams
(Coauthor: Assembly Member Bonilla)**

February 21, 2014

An act to amend Sections 87102, 87151, 87415, 87424, 87482.5, 87482.6, 87482.8, 87482.9, 87601, 87604, 87860, 87861, 87862, 87863, 87864, 87867, 87880, 87881, 87882, 87883, 87884, and 87885 of, to amend the headings of Article 9 (commencing with Section 87860) of, and Article 10 (commencing with Section 87880) of, Chapter 3 of Part 51 of Division 7 of Title 3 of, and to repeal Section 87482.4 of, the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 2705, as amended, Williams. Community colleges: faculty.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Under existing law, community college districts are authorized, among other things, to maintain and operate campuses, employ faculty and other employees, and provide instruction to students. Existing law provides for several classifications of community college faculty, including full-time, contract, and part-time faculty.

This bill would revise numerous statutes related to community college faculty to change references from “part-time” faculty to “contingent”

faculty. The bill would also make nonsubstantive changes in these statutes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The terms “part-time faculty” and “temporary faculty” do
4 not adequately describe the qualifications, contributions, and
5 importance of the community college faculty to whom those terms
6 have been applied.

7 (2) “Contingent faculty” is a more accurate and useful term with
8 which to refer to these educators, who are so integral to the
9 successful functioning of community colleges in this state.

10 (3) There are inconsistencies in the Education Code with regard
11 to the definitions of community college faculty, and the Legislature
12 seeks to standardize the terms “full-time faculty” and “contingent
13 faculty.”

14 (b) It is the intent of the Legislature, in enacting this act, to act
15 consistently with, and in no way to compromise or limit, the
16 holding of the Court of Appeals in the case of *Cervisi v.*
17 *Unemployment Insurance Appeals Board* (1989), 208 Cal.App.3d
18 635.

19 SEC. 2. Section 87102 of the Education Code is amended to
20 read:

21 87102. (a) As a condition for the receipt of funds pursuant to
22 Section 87107, the governing board of a community college district
23 that opts to participate under the article shall periodically submit
24 to the board of governors an affirmation of compliance with this
25 article. Each participating district’s equal employment opportunity
26 program shall ensure participation in, and commitment to, the
27 program by district personnel. Each participating district’s equal
28 employment opportunity plan shall include steps that the district
29 will take in eliminating improper discrimination or preferences in
30 its hiring and employment practices. Each plan shall address how
31 the district will make progress in achieving the ratio of full-time
32 to contingent faculty hiring, as indicated in Section 87482.6, while
33 still ensuring equal employment opportunity.

1 (b) Each participating district's equal employment opportunity
2 plan is a public record within the meaning of the California Public
3 Records Act (Chapter 3.5 (commencing with Section 6250) of
4 Division 7 of Title 1 of the Government Code).

5 SEC. 3. Section 87151 of the Education Code is amended to
6 read:

7 87151. The Board of Governors of the California Community
8 Colleges shall annually allocate funds appropriated for the purposes
9 of this article to each community college district whose chief
10 executive officer has submitted to the chancellor an affidavit that
11 includes:

12 (a) A statement that each campus within the community college
13 district has an advisory committee, composed of administrators,
14 faculty, and staff representatives, which has assisted in the
15 assessment of the faculty and staff development needs and in the
16 design of the plan to meet those needs.

17 (b) A campus human development resources plan has been
18 completed for the current and subsequent fiscal years.

19 (c) A report of the actual expenditures for faculty and staff
20 development for the preceding year.

21 SEC. 4. Section 87415 of the Education Code is amended to
22 read:

23 87415. The following general provisions shall apply
24 irrespective of the date of employment:

25 (a) The order once determined by lot shall be permanent, and
26 shall be entered on the permanent records of the community college
27 district.

28 (b) Records showing date of employment, whether kept by the
29 community college district or by the county, shall be accessible,
30 on demand, to any academic employee of the district or to his or
31 her designated representative.

32 (c) In the absence of records as to any of the matters referred
33 to in the two preceding sections, the governing board of the
34 community college district, in accordance with evidence presented,
35 shall determine the order of employment after giving employees
36 a reasonable opportunity to present this evidence.

37 (d) The governing board of every community college district
38 shall establish the order of employment of all *contract or regular*
39 employees of the district in the manner prescribed by Sections

1 87400 to 87424, inclusive, and shall keep a roster of the order of
2 employment as a public record.

3 (e) Whether or not a roster is kept in other community college
4 districts, the order of employment in all community college
5 districts, when required, shall be determined as prescribed by
6 Sections 87400 to 87424, inclusive.

7 (f) The governing board of a community college district shall
8 have power, and it shall be its duty, to correct any errors discovered
9 from time to time in its records showing the order of employment.

10 SEC. 5. Section 87424 of the Education Code is amended to
11 read:

12 87424. (a) If the employee from a community college district
13 within the state who serves as an exchange instructor outside of
14 the state and the governing board regularly employing him or her
15 so agree, the district may pay his or her regular salary, making all
16 deductions provided by law for retirement purposes, during the
17 period of the exchange teaching. In this situation, the community
18 college district shall not pay the salary of the exchange employee
19 from outside of the state, serving the district in exchange for its
20 regular instructor.

21 (b) If an employee from a community college district within
22 this state serving as an exchange instructor outside of the state, to
23 whom the governing board of that district is paying the regular
24 salary of that instructor as herein provided, is compelled to absent
25 himself or herself from his or her duties because of injury, illness,
26 or quarantine, the governing board of the community college
27 district within this state may pay the substitute employed to take
28 the place of that instructor and shall deduct the amount paid to the
29 substitute from the compensation of the employee.

30 SEC. 6. Section 87482.4 of the Education Code is repealed.

31 SEC. 7. Section 87482.5 of the Education Code is amended to
32 read:

33 87482.5. (a) Notwithstanding any other law, a person who is
34 employed to teach adult or community college classes for not more
35 than 67 percent of the hours per week considered a full-time
36 assignment for regular employees having comparable duties shall
37 be classified as a contingent employee, and shall not become a
38 contract employee under Section 87604. If the provisions of this
39 section are in conflict with the terms of a collective bargaining
40 agreement in effect on or before January 1, 2009, the provisions

1 of this section shall govern the employees subject to that agreement
2 upon the expiration of the agreement.

3 (b) Service as a substitute on a day-to-day basis by persons
4 employed under this section shall not be used for purposes of
5 calculating eligibility for contract or regular status.

6 (c) (1) Service in professional ancillary activities by persons
7 employed under this section, including, but not necessarily limited
8 to, governance, staff development, grant writing, and advising
9 student organizations, shall not be used for purposes of calculating
10 eligibility for contract or regular status unless otherwise provided
11 for in a collective bargaining agreement applicable to a person
12 employed under this section.

13 (2) This subdivision may not be construed to affect the
14 requirements of subdivision (d) of Section 84362.

15 SEC. 8. Section 87482.6 of the Education Code is amended to
16 read:

17 87482.6. (a) Until the provisions of Section 84750.5 regarding
18 program-based funding are implemented by a standard adopted
19 by the board of governors that establishes the appropriate
20 percentage of hours of credit instruction that should be taught by
21 full-time instructors, the Legislature wishes to recognize and make
22 efforts to address longstanding policy of the board of governors
23 that at least 75 percent of the hours of credit instruction in the
24 California Community Colleges, as a system, should be taught by
25 full-time instructors. To this end, community college districts that
26 have less than 75 percent of their hours of credit instruction taught
27 by full-time instructors shall apply a portion of the program
28 improvement allocation received pursuant to Section 84755 as
29 follows:

30 (1) Community college districts that, in the prior fiscal year,
31 had between 67 percent and 75 percent of their hours of credit
32 instruction taught by full-time instructors shall apply up to 33
33 percent of their program improvement allocation as necessary to
34 reach the 75 percent standard. If a district in this category chooses
35 instead not to improve its percentage, the board of governors shall
36 withhold 33 percent of the district's program improvement
37 allocation.

38 (2) Community college districts that, in the prior fiscal year,
39 had less than 67 percent of their hours of credit instruction taught
40 by full-time instructors shall apply up to 40 percent of their

1 program improvement allocation as necessary to reach the 75
2 percent standard. If a district in this category chooses instead not
3 to improve its percentage, the board of governors shall withhold
4 40 percent of the district's program improvement allocation.

5 (3) Community college districts that maintain 75 percent or
6 more of their hours of credit instruction taught by full-time
7 instructors shall otherwise be free to use their program
8 improvement allocation for any of the purposes specified in Section
9 84755.

10 (b) The board of governors shall adopt regulations for the
11 effective administration of this section. Unless and until amended
12 by the board of governors, the regulations shall provide as follows:

13 (1) In computing the percentage of hours of credit instruction
14 taught by full-time instructors, the hours of overload teaching by
15 full-time instructors shall be excluded from both the total hours
16 of credit instruction taught by full-time or contingent instructors
17 and the total hours of instruction taught by full-time instructors.

18 (2) *A full-time instructor shall be defined as any regular and*
19 *contract faculty member teaching credit instruction.*

20 ~~(2)~~

21 (3) (A) The chancellor shall compute and report to each
22 community college district the number of full-time faculty to be
23 secured through the use of the prescribed portion of program
24 improvement revenue allocated to each district. This computation
25 shall be made by dividing the applicable portion of program
26 improvement revenue (0 percent, 33 percent, or 40 percent of the
27 program improvement allocation), by the statewide average
28 "replacement cost" (a figure which represents the statewide average
29 faculty salary plus benefits, minus the statewide average hourly
30 rate of compensation for contingent instructors times the statewide
31 average full-time teaching load). If the quotient is not a whole
32 number, then the quotient shall be rounded down to the nearest
33 whole number. If this quotient, once applied, will result in the
34 district exceeding the 75 percent standard, the chancellor shall
35 further reduce the quotient to a whole number that will leave the
36 district as close as possible to, but in excess of, the 75 percent
37 standard.

38 (B) By March 15 of each year, the chancellor shall report to
39 each community college district an estimate of the number of

1 full-time faculty to be secured based upon the appropriation of
2 revenues contained in the annual Budget Bill.

3 ~~(3)~~

4 (4) On or before December 31, 1991, the chancellor shall
5 determine the extent to which each community college district, by
6 September 30, 1991, has hired the number of full-time faculty
7 determined pursuant to paragraph (3) for the 1989–90 and 1990–91
8 fiscal years. To the extent that the cumulative number of full-time
9 faculty have not been retained, the chancellor shall reduce the
10 community college district's base budget for 1991–92 and
11 subsequent fiscal years by an amount equivalent to the average
12 replacement cost times the deficiency in the number of full-time
13 faculty.

14 SEC. 9. Section 87482.8 of the Education Code is amended to
15 read:

16 87482.8. Whenever possible:

17 (a) Contingent faculty should be informed of assignments at
18 least six weeks in advance.

19 (b) Contingent faculty should be paid for the first week of an
20 assignment when class is cancelled less than two weeks before the
21 beginning of a semester. If a class meets more than once per week,
22 contingent faculty should be paid for all classes that were scheduled
23 for that week.

24 (c) The names of contingent faculty should be listed in the
25 schedule of classes rather than just described as "staff."

26 (d) Contingent faculty should be considered to be an integral
27 part of their departments and given all the rights normally afforded
28 to full-time faculty in the areas of book selection, participation in
29 department activities, and the use of college resources, including,
30 but not necessarily limited to, telephones, copy machines, supplies,
31 office space, mail boxes, clerical staff, library, and professional
32 development.

33 SEC. 10. Section 87482.9 of the Education Code is amended
34 to read:

35 87482.9. This section applies only to contingent faculty within
36 the meaning of Section 87482.5. The issue of earning and retaining
37 of annual reappointment rights shall be a mandatory subject of
38 negotiation with respect to the collective bargaining process
39 relating to any new or successor contract between community

1 college districts and contingent faculty occurring on or after
2 January 1, 2002.

3 SEC. 11. Section 87601 of the Education Code is amended to
4 read:

5 87601. For the purposes of this article:

6 (a) "Academic year" means that period between the first day of
7 a fall semester or quarter and the last day of the following spring
8 semester or quarter, excluding any intersession term that has been
9 excluded pursuant to an applicable collective bargaining agreement.

10 (b) "Contingent employee" means an employee of a district
11 who is employed in accordance with Section 87604.

12 (c) "Contract employee" means an employee of a district who
13 is employed on the basis of a contract in accordance with Section
14 87605, subdivision (b) of Section 87608, or subdivision (b) of
15 Section 87608.5.

16 (d) "District" means a community college district.

17 (e) "Positions requiring certification qualifications" are those
18 positions which provide the services for which certifications have
19 been established in this code.

20 (f) "Regular employee" means an employee of a district who
21 is employed in accordance with subdivision (c) of Section 87608,
22 subdivision (c) of Section 87608.5, or Section 87609.

23 SEC. 12. Section 87604 of the Education Code is amended to
24 read:

25 87604. The governing board of a community college district
26 shall employ each academic employee as a contract employee,
27 regular employee, or contingent employee.

28 SEC. 13. The heading of Article 9 (commencing with Section
29 87860) of Chapter 3 of Part 51 of Division 7 of Title 3 of the
30 Education Code is amended to read:

31
32 Article 9. Community College Contingent Faculty Health
33 Insurance Program
34

35 SEC. 14. Section 87860 of the Education Code is amended to
36 read:

37 87860. It is the intent of the Legislature that community college
38 contingent faculty and their eligible dependents have continuous
39 access to health insurance benefits.

1 SEC. 15. Section 87861 of the Education Code is amended to
2 read:

3 87861. For the purposes of this article:

4 (a) “Contingent faculty” refers to any faculty member whose
5 teaching assignment equals or exceeds 40 percent of the cumulative
6 equivalent of a minimum full-time teaching assignment.

7 (b) “Health insurance benefits” include medical benefits, but
8 do not include vision or dental benefits.

9 (c) The changes made to subdivision (b) during the 1999 portion
10 of the 1999–2000 Regular Session of the Legislature shall be
11 operative in any fiscal year only if funds are appropriated for
12 purposes of those changes in the annual Budget Act or in another
13 measure. If the amount appropriated in the annual Budget Act or
14 in another measure for purposes of this section is insufficient to
15 fully fund those changes for the fiscal year, the chancellor shall
16 prorate the funds among the community college districts affected
17 by this section.

18 SEC. 16. Section 87862 of the Education Code is amended to
19 read:

20 87862. The governing board of a community college district
21 may provide a program of health insurance for contingent faculty
22 and their dependents.

23 SEC. 17. Section 87863 of the Education Code is amended to
24 read:

25 87863. (a) A contingent faculty member and his or her eligible
26 dependents are eligible to participate in the program established
27 pursuant to this article.

28 (b) The changes made to subdivision (a) during the 1999 portion
29 of the 1999–2000 Regular Session of the Legislature shall be
30 operative in any fiscal year only if funds are appropriated for
31 purposes of those changes in the annual Budget Act or in another
32 measure. If the amount appropriated in the annual Budget Act or
33 in another measure for purposes of this section is insufficient to
34 fully fund those changes for the fiscal year, the chancellor shall
35 prorate the funds among the community college districts affected
36 by this section.

37 (c) Any changes made pursuant to this section to the Community
38 College Contingent Faculty Health Insurance Program shall not
39 affect any contingent health insurance program in effect on January
40 1, 2000.

1 SEC. 18. Section 87864 of the Education Code is amended to
2 read:

3 87864. No contingent faculty member or dependents whose
4 premiums for health insurance are paid by an employer other than
5 a community college district is eligible to participate in the program
6 established pursuant to this article.

7 SEC. 19. Section 87867 of the Education Code is amended to
8 read:

9 87867. By June 15 of each year, the Chancellor of the
10 California Community Colleges shall apportion to each community
11 college district that establishes a program pursuant to this article
12 an amount that equals up to one-half of the total cost of the
13 individual enrollment premiums required to be paid for the health
14 insurance coverage of participating contingent faculty and their
15 dependents in the district. The chancellor shall distribute funds
16 that have been appropriated specifically for this purpose
17 proportionally based on each community college district's total
18 costs for premiums for those community college districts that
19 submit verification of the costs of premiums for eligible employees
20 for a fiscal year, but in no event shall the allocation to any
21 community college district exceed one-half of the cost of the
22 verified premiums. If funds appropriated for this purpose exceed
23 one-half of the verified cost of premiums for all participating
24 community college districts statewide, the balance that exceeds
25 that amount shall revert to the General Fund annually.

26 SEC. 20. The heading of Article 10 (commencing with Section
27 87880) of Chapter 3 of Part 51 of Division 7 of Title 3 of the
28 Education Code is amended to read:

29
30 Article 10. Community College Contingent Faculty Office
31 Hours Program
32

33 SEC. 21. Section 87880 of the Education Code is amended to
34 read:

35 87880. The Legislature finds and declares that community
36 college contingent faculty are required to fulfill the same teaching
37 responsibilities as full-time faculty although students have little
38 or no access to contingent faculty members outside of the
39 classroom. It is the intent of the Legislature that students have the
40 same opportunity for academic assistance and guidance without

1 regard to whether a course at a community college is taught by a
2 full-time or contingent faculty member. It is the further intent of
3 the Legislature that community college contingent faculty teaching
4 a minimum number of courses be compensated for providing
5 academic counseling and assistance to students outside of the
6 classroom.

7 SEC. 22. Section 87881 of the Education Code is amended to
8 read:

9 87881. There is hereby established the Community College
10 Contingent Faculty Office Hours Program for the purpose of
11 providing community college students equal access to academic
12 advice and assistance and to encourage community college districts
13 to provide opportunities by compensating contingent faculty who
14 hold office hours related to their teaching load.

15 SEC. 23. Section 87882 of the Education Code is amended to
16 read:

17 87882. For purposes of this article, “contingent faculty” means
18 any person who is employed to teach for not more than the hours
19 per week described in Section 87482.5.

20 SEC. 24. Section 87883 of the Education Code is amended to
21 read:

22 87883. (a) The governing board of a community college district
23 may provide compensation for office hours to contingent faculty.

24 (b) The compensation paid to contingent faculty under this
25 article shall equal at least one paid office hour for every two classes
26 or more taught each week or 40 percent of a full-time load as
27 defined by the community college district.

28 (c) Nothing in this section precludes compensation under this
29 program for paid office time for each 20 percent of a full-time
30 load, or fraction thereof, as defined by the community college
31 district.

32 (d) The change made to subdivision (c) during the 1999 portion
33 of the 1999–2000 Regular Session of the Legislature shall be
34 operative in any fiscal year only if funds are appropriated for
35 purposes of that change in the annual Budget Act or in another
36 measure. If the amount appropriated in the annual Budget Act or
37 in another measure for purposes of this section is insufficient to
38 fully fund that change for the fiscal year, the chancellor shall
39 prorate the funds among the community college districts affected
40 by this section.

1 SEC. 25. Section 87884 of the Education Code is amended to
2 read:

3 87884. (a) The governing board of each community college
4 district that establishes a program pursuant to this article shall
5 negotiate with the exclusive bargaining representative, or in
6 instances where there is no bargaining unit shall meet and confer
7 with the faculty, to establish a program to provide contingent
8 faculty office hours.

9 (b) Any hours negotiated under this program shall not be applied
10 toward the maximum percentage-of-hours limitation for contingent
11 faculty as specified in Section 87882. These hours shall not be
12 counted toward the hours per week of teaching adult or community
13 college classes for purposes of acquiring eligibility for tenure or
14 for purposes of fulfilling any probationary hour requirements.

15 (c) On or before June 1 of each year, each community college
16 district participating in the program shall send a verification to the
17 Chancellor of the California Community Colleges specifying the
18 total costs of the compensation paid for office hours of contingent
19 faculty participating in the program.

20 (d) Any changes made by this section to the Community College
21 Contingent Faculty Office Hours Program shall not affect any
22 contingent faculty office hours program in effect on January 1,
23 2000.

24 SEC. 26. Section 87885 of the Education Code is amended to
25 read:

26 87885. (a) The Contingent Faculty Office Hours Program
27 Fund is hereby established in the State Treasury as a continuation
28 of the Part-Time Faculty Office Hours Program Fund established
29 by this section.

30 (b) On or before June 15 of each year, the Chancellor of the
31 California Community Colleges shall apportion to each community
32 college district that establishes a program pursuant to this article
33 an amount of up to 50 percent of the total costs of compensation
34 paid for office hours of contingent faculty, as defined in Section
35 87882. The chancellor shall distribute funds that are appropriated
36 in the annual Budget Act specifically for this purpose
37 proportionally based on each community college district's total
38 costs for office hours of contingent faculty pursuant to the
39 verification submitted by the community college district in
40 accordance with subdivision (c) of Section 87884 for that fiscal

1 year. In no event, however, shall the allocation to any district in a
2 fiscal year exceed 50 percent of the total costs of the compensation
3 paid for office hours of contingent faculty pursuant to this article.
4 (c) It is the intent of the Legislature that funding for the purposes
5 of this article be included in the annual Budget Act.

O